

More Discussion on Land Law and Regulations for Industrial Zones Land

Nguyen Trong Diep, PhD¹ & Nguyen Anh Thu, PhD^{2*}

^{1,2}University of Law, Vietnam National University, Hanoi, Vietnam. Email: thuna@vnu.edu.vn*

DOI: <https://doi.org/10.46431/MEJAST.2023.6206>



Copyright © 2023 Nguyen Trong Diep & Nguyen Anh Thu. This is an open-access article distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

Article Received: 12 March 2023

Article Accepted: 28 April 2023

Article Published: 13 May 2023

ABSTRACT

The study purpose is to present **More Discussion on Land Law and Regulations for Using Industrial Zones Land**. Land in industrial zones or land in industrial zones belonging to non-agricultural production and business land. This is land to build industrial clusters, industrial parks, export processing zones and other concentrated production and business zones with the same land use regime. The process of organizing the implementation of the 2013 Land Law has revealed shortcomings and limitations which is not suitable with the socialist-oriented market economy institution and the development requirements of the country.

Keywords: Problems; Land law; Regulations; Industrial zones.

1. Introduction

The management and use of land in industrial parks, economic zones, export processing zones and high-tech zones (IZs, EZs, EPZs, IZs) is a matter covered by the 2013 Land Law and its guiding documents. Regulations are relatively complete and detailed if viewed in general. The fairly complete legal framework is one of the basic reasons for enabling industrial parks, economic zones, export processing zones and high-tech zones to develop and effectively contribute to the national economy, creating jobs for millions of laborers, making a significant contribution to poverty reduction, raising incomes and living standards of the people.

Hence we choose this topic with Research questions:

Question 1: What are **More Discussion on Land Law and Regulations for Using Industrial Zones Land**?

2. Methodology

Authors have used qualitative and analytical methods, descriptive method for primary model, synthesis and discussion methods in this paper.

We also used historical materialism method.

3. Main findings

3.1. Policy for using Land in Industrial zones

First, **Industrial cluster development policy and industrial cluster infrastructure construction planning**.

Decision No. 105/2009/QD - TTG dated August 19, 2009 on Promulgation of Regulations on Management of CCNs stated:

- Based on the socio-economic development planning, industry and handicraft development planning in the area, land use master plans and plans and other relevant planning, the Department of Industry and Trade shall preside over, coordinate with the Departments, branches and district-level People's Committees to develop the CCN development planning scheme in the area and submit it to the provincial-level People's Committee for approval

after obtaining the agreement of the Ministry of Industry and Trade. Depending on the specific situation and conditions, the requirements and objectives for the development of industry - handicrafts in the area in each period, the People's Committee of the province shall decide to develop a separate planning for the development of industrial zones or make a plan for the development of industrial zones. part of the provincial master plan on industrial and handicraft development.

The main contents of the CCN development planning project include:

- (a) Legal bases and necessity for planning;
- (b) Overview of the development situation of industries and industrial parks in the area;
- (c) Analysis and assessment of the current status of construction and development of industrial zones that have been planned and established in the area, including: i) Determining the position and role of industrial zones in socio-economic development, develop local industries; ii) Analyze and evaluate the achievements and shortcomings in the investment, construction and development of industrial parks; iii) Forecasting the factors affecting the demand for industrial zones development, the ability to attract investment in infrastructure of the industrial zones and the demand for land lease of enterprises and industrial production establishments in the area;
- (d) Orientation for distribution and development of industrial clusters in the locality, including: identification of names, locations, expected area size, land layout capability, nature of industries and conditions of connection. external infrastructure connection of planned CCNs;
- (dd) Identify solutions, mechanisms, policies and propose plans for implementation;
- (e) Strategic environmental impact assessment;
- (f) Show the planning options for industrial development on the planning map.

The order of formulation, approval and management of the CCN development planning scheme complies with current regulations, approval and management of the socio-economic development master plan. CCN development planning in the locality must be announced no later than 30 days from the date of approval decision.

The approved industrial park development planning is the basis for considering and deciding on the establishment of industrial zones, calling for investment in infrastructure construction, planning to relocate polluting enterprises and production facilities or there is a risk of polluting out of craft villages, residential areas and mobilizing and attracting investment in production and business in industrial zones.

Next, Policy on acquiring land fund for infrastructure construction of industrial clusters

The policy of acquiring land fund for the construction of industrial infrastructure is clearly shown in the following decisions/decisions:

- (i) Decision No. 132/2000/QD-TTg dated 24/11/2000 of the Prime Minister on a number of policies to encourage the development of rural industries; The decision clearly states "For localities with many rural business establishments, the provincial-level People's Committees shall assign the People's Committees of districts or communes to plan land, invest in the construction of technical infrastructure in the urban areas, the cluster of

handicrafts, creating favorable conditions for rural business establishments to lease land to invest in building production facilities”.

(ii) Decree 66/2006/NĐ - CP dated 07/07/2006 of the Government on rural industry development. The Decree clearly states that “To encourage organizations, individuals and rural business establishments to invest in building infrastructure of craft villages and clusters of rural industry establishments. The State supports investment in infrastructure of craft villages and outside the fences of clusters of rural business establishments according to regulations, specifically, the local budget supports a part of investment funds for infrastructure construction and environmental treatment for rural communities, clusters of rural trade establishments” [25, Article 7].

(iii) Decree 134/20004/NĐ-CP dated 09/06/2004 on encouraging rural industrial development. The decision clearly states that “provincial People’s Committees are responsible for planning land, setting aside land funds and using land rental fees in accordance with law to invest in building technical infrastructure for industrial clusters – handicrafts and craft villages and create favorable conditions for rural industrial production establishments to invest in production”.

(iv) Decree No. 56/2009/NĐ-CP dated June 30, 2009 on supporting the development of small and medium enterprises. Decree 56 defines: “On the basis of publicizing socio-economic development planning and master plans and plans on land use in the province and city already approved by the Prime Minister, the People's Committees of provinces and cities. Centrally-affiliated cities reserve the land fund and implement measures to encourage the construction of industrial zones and clusters for SMEs to rent as production and business premises or relocate out of the inner city and inner city to ensure the landscape and environment. school”.

(v) Decree No. 142/2005/NĐ-CP dated 14/11/2005: Investment projects in infrastructure business and production investment in industrial zones are exempted from land rent for 15 years in geographical areas with favorable economic conditions - particularly difficult society; land rent exemption for 11 years in areas with difficult socio-economic conditions and 3 years in other areas.

3.2. Land Law Revisions

In addition to the achieved results, the process of organizing the implementation of the 2013 Land Law has revealed shortcomings and limitations; land resources have not been fully and sustainably promoted; the land use is wasteful, low efficiency; Complaints, denunciations and violations of the land law still have complicated developments; degradation, pollution, landslides are getting more and more serious.

The shortcomings and inadequacies mentioned above are caused by the lack of synchronous legal system, which is not suitable with the socialist-oriented market economy institution and the development requirements of the country; master plans, plans on land use and related master plans have not yet ensured the consistency and synchronization; land prices have not yet reflected the actual market; The implementation of the law on land is sometimes not strict (SOURCE: xaydungchinhachsach.chinhphu.vn).

Regulations on the management and use of land in combination with multi-purposes: Proposing regulations on management and use of land in combination with multi-purpose, residential land in combination with commerce and services; agricultural land combined with trade and services; land for national defense and security combined

with economy; land for tourism projects with spiritual elements; land for construction of aerial works, underground works, land formed from sea reclamation activities (According to Article 209 of the draft Land Law (amended)).

4. Discussion and conclusion

Vietnamese lawmakers' use of the concept of "the right to the restricted use of adjoining immovable property" and "the right to adjoining immovable property" is not the optimal solution. Although Vietnamese lawmakers have recognized the mismatch of the concept of "the right to the restricted use of adjoining immovable property": (1) in this concept, the word "use" plus the word "right" combined as "the right to use" may easily lead to misunderstandings as "the right to use" in the connotation of ownership right (in Vietnam, ownership rights comprise 3 components: rights to possess, to use and to dispose of property), hence the word "use" should be removed, so as not to cause confusion; (2) using the word "limited" is not necessary because the content of these rights have shown a narrower scope in compared to ownership right (Do, 2015).



Figure 1. Management of land in industrial zones

(SOURCE: Internet)

The process of organizing the implementation of the 2013 Land Law has revealed shortcomings and limitations which is not suitable with the socialist-oriented market economy institution and the development requirements of the country.

Declarations

Source of Funding

This study did not receive any grant from funding agencies in the public or not-for-profit sectors.

Competing Interests Statement

The authors have declared no competing interests.

Consent for Publication

The authors declare that they consented to the publication of this study.

Authors' Contribution

Both the authors took part in literature review, research, and manuscript writing equally.

Acknowledgement

Thank you editors, friends to assist this publication.

References

Aarnio, A. (2011). Luentoja lainopillisen tutkimuksen teoriasta. Helsingin yliopiston oikeustieteellinen tiedekunta.

Ahonen, J. (2015). Valvontaviranomainen yleisen edun valvojana lupaprosessissa—Esimerkkinä jätevedenpuhdista moiden typenpoisto. *Ympäristöjuridiikka*.

Al-Damkhi, A.M., Khuraibet, A.M., Abdul-Wahab, S.A., & Al-Attar, F.A. (2009). Commentary: Toward defining the concept of environmental crime on the basis of sustainability. *Environmental Practice*, 11(2): 115–124. doi: <https://doi.org/10.1017/S1466046609090115>.

Almer, C., & Goeschl, T. (2010). Environmental crime and punishment: empirical evidence from the German penal code. *Land Economics*, 86(4): 707–726. doi: <https://doi.org/10.3388/le.86.4.707>.

Lynch, M.J. (2019). County-level environmental crime enforcement: A case study of environmental/green crimes in Fulton County, Georgia, 1998–2014. *Deviant Behavior*, 40(9): 1090–1104. doi: <https://doi.org/10.1080/01639625.2018.1461746>.

Lynch, M.J., Stretesky, P.B., & Long, M.A. (2019). Environmental crime prosecutions in Ireland, 2004–2014. *International Journal of Comparative and Applied Criminal Justice*, 43(4): 277–293.

ND Trung, DTN Huy, LL Yen, NT Diep (2022). Assessment of the advantages, achievements and limitations and shortcomings in the construction of industrial infrastructure in Hanoi-and recommendations for building IC. *Journal of Language and Linguistic Studies*, 17(2).

Pham V.L. (2018). Crime on the environment Some theoretical and practical issues.

PT Anh, DTN Huy, BTT Loan (2020). Analysis of a Financial Model for Converting Industrial Waste Tires into Clean Energy for Environment Protection-A Model in Developing Countries. *Wseas Transactions on Environment and Development*, 15: 447–454

Paukku E. (2022). Environmental crime in a welfare state - a case study on the prosecution of environmental crimes in Finland 2015-2020. *International Journal of Comparative and Applied Criminal Justice*, 2. doi: <https://doi.org/10.1080/01924036.2022.2087701>.

Statistisk Sentralbyra (2021). Offences investigated. Retrieved October, 19 2021, from <https://www.ssb.no/en/sosiale-forhold-og-kriminalitet/kriminalitet-og-rettsvesen/statistikk/etterforskede-lovbrudd>.

Stretesky, P.B., Long, M.A., & Lynch, M. (2014). The treadmill of crime: Political economy and green criminology, Routledge.

Z Wang, M Akhavan, MNI Kashkouli, MJC Opulencia, DTN Huy (2022). Sustainable wastewater management from shale oil production wells: emerging opportunities and barriers. *Applied Water Science*, 12(7): 1–6.